



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Approving the Disadvantaged Business Enterprise Program and Established Overall Annual Disadvantaged Business Enterprise (DBE) Goal of 6% for FTA-Assisted Projects for Federal Fiscal Year 2005/06

MEETING DATE: December 21, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving the Disadvantaged Business Enterprise Program and Established Overall Annual DBE Goal of 6% for Federal Fiscal Year (FFY) 2005/06 for Federal Transit Administration (FTA)-assisted projects.

BACKGROUND INFORMATION: The City is required to develop and submit an Overall Annual Goal for DBE participation on U.S. Department of Transportation (DOT)-assisted contracts, as a condition of federal financial assistance, pursuant to revised regulations set forth under Title 49 CFR Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Programs*. In accordance with these DBE regulations, the City, with help from its consultant, Padilla & Associates, has established an Overall Annual DBE Goal for Federal Fiscal Year 2005/06 for FTA-assisted projects, to ensure full compliance with relevant regulatory requirements.

The Established Overall Annual DBE Goal of 6% for FFY 2005/06 DOT-assisted contracts addresses critical components and fulfills specific requirements for narrow tailoring (under a court decision, narrowly tailored requirements provide for more flexibility in establishing a goal) in accordance with Title 49 CFR Part 26. The City's Established Overall Annual DBE Goal was developed utilizing the federal prescribed two-step goal setting methodology. Step I included establishing a Base Figure utilizing quantifiable evidence to determine the relative availability of DBEs within specified industries identified as a part of the City's DOT-assisted contracting projects anticipated to be awarded by the City of Lodi within FFY 2005/06. The City utilized the Caltrans Unified Certified Program (UCP) on-line database of Certified DBE Firms and the 2002 U.S. Census Bureau County Business Patterns (CBP) database to complete this step. Upon establishing the Base Figure, the City surveyed and assessed other known relevant evidence to determine what additional adjustments, if any, were needed to narrowly tailor the Base Figure to the City's market area. No additional adjustments were needed for this narrow tailoring. Factors considered in the adjustment of the Base Figure included the historical and current capacity of DBEs measured by actual attainments on similar projects. Following Council's approval of the Established Overall Annual Goal for FFY 2005/06, staff will submit to Caltrans and FTA for their final review.

The Established Overall Annual Goal for Federal Fiscal Year 2005/06 will be updated annually to maintain relevancy to local market conditions and factors impacting DBE availability.

At the October 5, 2005, meeting the Established Overall Annual DBE goal for FFY 2005/06 was approved and adopted by Council. After the goal was adopted, Caltrans notified the City that its program

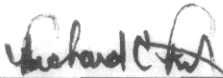
APPROVED:

Blair King, City Manager

would need to be updated and the public participation portion would need to be repeated. The public participation portion set forth under Title 49 CFR Part 26 requires that the notice of the proposed goal and its rationale be published informing the public that both are available for inspection for thirty days and comments will be accepted for forty-five days after the date of the notice. The notice is required to be published in general circulations media, available minority-focused media and trade association publications. The required forty-five day waiting period for the public participation process will expire on December 24, 2005. Should any comments be received regarding the goal that may require us to change or update any of the information then staff will need to return for Council approval again.

FISCAL IMPACT: City Council approval and adoption of the Established Overall Annual DBE Goal for FFY 2005/06 is required to ensure compliance with Department of Transportation's federal funding requirements, provisions and financial responsibilities. Failure to do so will directly jeopardize the City of Lodi's federal financial assistance.

FUNDING AVAILABLE: None required.



Richard C. Prima, Jr.
Public Works Director

Prepared by Rebecca Areida, Management Analyst
RCP/RA/pmf
Attachments
cc: Tiffani Fink, Transportation Manager



CITY OF LODI

Disadvantaged Business Enterprise Program

Submitted in fulfillment of :

*Section 1101 of the Transportation Equity Act for the 21st Century
49 Code of Federal Regulations Part 26
and
Caltrans Local Assistance Procedures Manual*

CITY OF LODI

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Table of Contents

I.	Definition of Terms.....	1
II.	Objectives/ Policy Statement.....	1
III.	Nondiscrimination.....	2
IV.	DBE Program Updates.....	2
V.	Quotas.....	2
VI.	DBE Liaison Officer.....	2
VII.	Federal Financial Assistance Agreement Assurance.....	3
VIII.	DBE Financial Institutions.....	4
IX.	Directory.....	4
X.	Overconcentration.....	4
XI.	Business Development Programs.....	4
XII.	Required Contract Clauses.....	4
XIII.	Monitoring and Enforcement Mechanisms.....	6
XIV.	Overall Goals.....	9
XV.	Contract Goals.....	12
XVI.	Transit Vehicle Manufacturers.....	12
XVII.	Good Faith Efforts.....	13
XVIII.	Counting DBE Participation.....	14
XIX.	Certification.....	15
XX.	Information Collection and Reporting.....	15
	Appendix A: Guidance Concerning Good Faith Efforts.....	16
	Appendix B: DBE Program Organizational Chart.....	19
	Appendix C: Bidders List.....	20
	Appendix D: Overall Annual DBE Goal Analysis for FFY 05/06	

CITY OF LODI
DBE PROGRAM

I. Definition of Terms

The terms used in this Program have the meanings defined in Title 49 CFR §26.5.

II. Objectives/ Policy Statement (§§26.1, 26.23)

The City of Lodi has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26: “*Participation by Disadvantaged Business Enterprise Regulations in Department of Transportation Financial Assistance Programs*”. The City of Lodi receives Federal financial assistance from the DOT, and as a condition of receiving this assistance, the City of Lodi will sign an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Lodi to ensure that DBE’s, as defined in CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To ensure a level playing field on which DBE’s can compete fairly for DOT-assisted contracts;
- To ensure that the DBE program is narrowly tailored in accordance with applicable laws;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBE’s;
- To help remove barriers impacting the participation of DBE’s in DOT-assisted contracts; and
- To assist in the development of DBE firms to enable them to compete successfully in the market place outside of the DBE program.

Ms. Rebecca Areida, Management Analyst in the Public Works Department, is the DBE Liaison Officer for the City of Lodi. In this capacity, Ms. Areida is responsible for implementing all aspects of the DBE program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the City of Lodi in its financial assistance agreements with the California Department of Transportation (Caltrans).

The City of Lodi has disseminated this policy statement to the City of Lodi City Council and all components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.

III. Nondiscrimination (§ 26.7)

The City of Lodi will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by Title 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Lodi will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

IV. DBE Program Updates (§ 26.21)

The City of Lodi will continue to carry out this Program until we have established a new goal setting methodology or until significant changes to the DBE program are adopted. The City of Lodi will provide to Caltrans a proposed overall annual goal and goal setting methodology and other program updates by June 1 of every year.

V. Quotas (§ 26.43)

The City of Lodi will not use quotas or set-asides in any way in the administration of this DBE program.

VI. DBE Liaison Officer (DBELO) (§ 26.45)

The City of Lodi has designated the following individual as the DBE Liaison Officer:

Ms. Rebecca Areida, Management Analyst
City of Lodi
Public Works Department
P.O. Box 3006
Lodi, CA 95241
Telephone: (209) 333-6800 ext. 2658
E-Mail: rareida@lodi.gov

In this capacity, Ms. Areida is responsible for implementing all aspects of the DBE Program and ensuring that the City of Lodi complies with all provisions of Title 49 CFR Part 26: "*Participation by Disadvantaged Business Enterprise Regulations in Department of Transportation Financial Assistance Programs*". This is available on the Internet at osbuweb.dot.gov/main.cfm. Ms. Areida has direct, independent access to the City Manager concerning DBE program matters. The DBELO has support personnel who devote a portion of their time to the Program. An organizational chart displaying the DBELO's position in the organization is found in Appendix B to this program.

The DBE Liaison Officer is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other data as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals for DBE participation in DOT-assisted contracts.
4. Ensures that bid notices and requests for proposals are available to DBE's in a timely manner.
5. Identifies contracts and procurements to ensure DBE goals are included in solicitations when warranted (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes the City of Lodi's progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Determines contractor compliance with good faith efforts.
10. Provides DBE's with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBE's and community organizations to advise them of DOT contracting opportunities.
13. Develops and maintains a Bidders List of DBE and non-DBE firms bidding on DOT-assisted projects.

VII. Federal Financial Assistance Program Assurance (§ 26.13)

The City of Lodi will sign the following assurance, applicable to all DOT-assisted contracts and their administration as part of the program supplement agreement for each project:

The City of Lodi shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The City of Lodi shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The City of Lodi's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Lodi of its failure to carry out its approved Program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/ or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII. DBE Financial Institutions

It is the policy of the City of Lodi to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBE Liaison Officer.

IX. DBE Directory (§ 26.31)

The City of Lodi will refer interested persons to the DBE directory from the Caltrans Disadvantaged Business Enterprise Program website at www.dot.ca.gov/hq/bep. Free internet access is available at the City of Lodi Public Library, 201 W. Locust Street, Lodi.

X. Overconcentration (§ 26.33)

The City of Lodi has not identified any types of work in DOT-assisted contracts that have an overconcentration of DBE participation. If in the future, the City of Lodi identifies the need to address overconcentration, measures for addressing overconcentration will be submitted to the DLAE for approval.

XI. Business Development Program (§ 26.35)

The City of Lodi does not have a business development or Mentor-Protégé Program. If the City of Lodi identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted to the DLAE for approval.

XII. Required Contract Clauses (§§ 26.13, 26.29)

Contract Assurance

The City of Lodi ensures that the following clause is placed in every-DOT-assisted contract and subcontract:

“The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.”

Prompt Payment

The City of Lodi ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

Prompt Payment of Funds Withheld to Subcontractors

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

Satisfactory Performance

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from the City of Lodi. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Lodi. This clause applies to both DBE and non-DBE subcontractors.

Release of Retainage

The prime contractor agrees to further release retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Lodi. This clause applies to both DBE and non-DBE subcontractors.

Ongoing Compliance Monitoring

It is the responsibility of the prime contractor to provide evidence of all subcontractor payments in accordance with the above stated Prompt Payment Provisions. The prime contractor shall provide access to such records at the request of the City of Lodi.

The City of Lodi will conduct periodic reviews as necessary to ensure full compliance.

XIII. Monitoring and Enforcement Mechanisms (§ 26.37)

The City of Lodi will assign a Resident Engineer (RE) or Contract Manager to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award, the City of Lodi will review the award documents for the portion of items each DBE and first tier subcontractor will be performing and the dollar value of that work. With these documents the RE/Contract Manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

Pre-Construction Conference

A pre-construction conference will be scheduled between the RE and the prime contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can begin on a subcontract, the City of Lodi will require the contractor to submit a completed "Subcontracting Request," Exhibit 16-B of Caltrans' Local Assistance Program Manual (LAPM) or equivalent. When the RE receives the completed form it will be checked for agreement of the first tier subcontractors and DBE's to ensure DBE goal commitments are adhered to. The RE will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed "Local Agency Bidder DBE Information," Exhibit 15-G of the Caltrans' LAPM. The "Subcontracting Request" will not be approved until all discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the RE will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the "Bidder DBE Information" will be compared to those listed in the completed Exhibit 16-I of Caltrans' LAPM or equivalent. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors within excess of one half of one percent (0.5%) of the contractor's total bid or \$10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with approval of the awarding authority.

The RE will give the contractor a blank “Final Report Utilization of Disadvantaged Business Enterprises, First Tier Subcontractors”, Exhibit 17-F of Caltrans’ LAPM, and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

Construction Contract Monitoring

The RE will ensure that the RE’s staff (inspectors) know what items of work each DBE is responsible for performing. Inspectors will notify the RE immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the RE will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor’s response, the RE will take appropriate action. The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to the Caltrans Disadvantaged Business Enterprise Program. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

If the contract requires the submittal of a monthly trucking document, the contractor will be required to submit documentation to the RE showing the owner’s name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which the DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers are checked by inspectors regularly to confirm compliance.

Substitution

When a DBE substitution is requested, the RE/ Contract Manager will request a letter from the contractor explaining why substitution is needed. The RE/Contract Manager must review the letter to be sure names and addresses are shown, dollar values are included, and the reason for the request is explained. If the RE/Contract Manager agrees to the substitution and with concurrence of the substitution of the DBE Liaison Officer, the RE/Contract Manager will notify, in writing, the DBE subcontractor regarding the proposed substitution and procedure for written objection from the DBE subcontractor in accordance with the Subletting and Subcontracting Fair Practices Act. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the RE/ Contract Manager for local agency consideration.

If there is any doubt in the RE/Contract Manager’s mind regarding the requested substitution, the RE/Contract Manager may contact the DLAE for assistance and direction.

Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

1. The name of the business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on Exhibit 17-F of Caltrans' LAPM and will be submitted to the DLAE attached to the Report of Expenditures. The RE will compare the completed Exhibit 17-F of Caltrans' LAPM to the contractor's completed Exhibit 15-G of Caltrans' LAPM and, if applicable, to the completed Exhibit 16-B of Caltrans' LAPM. The DBE's shown on the completed Exhibit 17-F of the Caltrans' LAPM should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBE's and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed Exhibit 15-g of Caltrans' LAPM when:

- There have been no changes made by the RE.
- The contractor has not provided a sufficient explanation in the comments section of the completed Exhibit 17-F of Caltrans' LAPM.

The explanation will be attached to the completed Exhibit 17-F for submittal. The RE will file this in the project records.

The City of Lodi's DBE Liaison Officer will keep track of the DBE certification status on the Internet at www.dot.ca.gov/hq/bep and keep the RE informed of changes that effect the contract. The RE will require the contractor to act in accordance with existing contractual commitments regardless of decertification.

The DLAE will use the PS&E checklist to monitor the City of Lodi's commitment to require bidders list information to be submitted to the City of Lodi from the awarded prime and subcontractors as a means to develop a bidders list. The monitoring will only take place if the bidders list information is required to be submitted as stipulated in the special provisions.

The City of Lodi will bring to the attention of the DOT through the DLAE any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and

Civil Penalties rules) provided in §26.109. The City of Lodi also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

XIV. Overall Goals (§ 26.45)

Amount of Goal

The City of Lodi's Overall Annual Goal for the Federal Fiscal Year (FFY) 2205/2006 is the following: 6% of the Federal financial assistance in DOT-assisted contracts. This overall goal is broken down into 6% race-conscious and 0% race-neutral components.

Methodology

Projecting Federal Assisted Contract Awards/ Expenditures for Federal Fiscal Year

In conjunction with the preparation and adoption of the budget for each fiscal year, the DBE Liaison Officer, in consultation with the appropriate divisions and departments responsible for contracting activities, will conduct a thorough analysis of the projected number, types of work by industry disciplines and dollar amounts of contracting opportunities that will be funded, in whole or in part, by DOT federal financial assistance for that year.

STEP 1: Establishing a Base Figure

Once the City of Lodi defines its DOT-assisted contracting program and relevant market areas for the fiscal year, the City of Lodi will establish a *Base Figure* following one of the methodologies outlined in Title 49 CFR Part 26 and Caltrans' Local Assistance Procedures Manual.

For Federal Fiscal Year 2005/06, to determine the Base Figure of relative availability of DBE's, the City of Lodi embraced a methodology, which included a calculation and an analysis of the ratio of all available (ready, willing and able) established DBE firms as compared to all available established firms within the City of Lodi's market area. This was accomplished by utilizing the Caltrans on-line Bulletin Board System (BBS) Directory of Certified Firms as its numerator and the 1998 U.S. Census Bureau County Business Patterns (CBP) Database as its denominator. Comparisons were made by corresponding zip codes within the City of Lodi's market area and by the following specified industries:

Categories: Highway and Street Construction and Concrete Work

The City of Lodi further weighted the resultant figure based on the amount of DOT-federal assistance the City of Lodi is projected to award and/or expend on various industries in establishing the base figure.

Please refer to Appendix D for the City of Lodi's Overall Annual Goal Analysis for FFY 2005/2006.

STEP 2: Adjusting the Base Figure

As a mandatory second step, the City of Lodi will survey other relevant market data to consider adjusting the Base Figure established. Indicators that City of Lodi may determine to be relevant to its market, may include, but not be limited to:

1. Demonstrated evidence of DBE capacity to perform work in the City of Lodi's federally assisted and non-federally assisted program.
2. The number, types and dollar value of contracting opportunities projected to be financed with federal funds and to be awarded during the federal fiscal year.
3. The City of Lodi's Bidders List.
4. Other recipients' goal results in similar contracting opportunities and markets, and the reasons for the level of those results.
5. The methods used by the City of Lodi to increase DBE participation in federally assisted contracts.
6. The demographics and business activity of the geographical area in which the City of Lodi will solicit bids or proposals.
7. The data from statistical disparities of DBE's to obtain financing, bonding and insurance requirements.
8. The data on employment and self-employment, education and training programs, to the extent the City of Lodi can relate it to the opportunities for DBE's to perform in the City of Lodi's DBE Program.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The City of Lodi shall achieve the overall annual goals for DBE participation through a combination of race-neutral goals and race-conscious measures including the use of contract-specific goals as needed to meet its overall annual DBE goal.

Race-Neutral Measures

The City of Lodi intends to use race-neutral measures to the extent feasible to achieve its overall annual goal. The City of Lodi will use the following measures as appropriate to facilitate DBE and other small business participation in the City of Lodi's contracting program:

- (a) Configuring large contracts into smaller contracts when feasible, which would make contracts more accessible to small businesses, and would not impose significant additional cost, delay or risk to the City of Lodi;
- (b) Contractors will be encouraged to consider subcontractors for components of the work for which there is a know supply of ready,

- willing and able subcontractors, including DBE subcontractors, in preparing their bids;
- (c) Assisting the overcoming limitations in bonding and financing;
- (d) Providing technical assistance in orienting small businesses to public contracting procedures, use of the Internet, and facilitating introductions to the City of Lodi's and other U.S. DOT recipients' contracting activities; and
- (e) Providing outreach and communications programs on contract procedures and contract opportunities to ensure the inclusion of DBE's and other small businesses.

Race- Conscious Measures Goals (Section 26.51)

The City of Lodi will annually consider various factors to project levels of DBE participation to be met through race-conscious measures such as contract-specific goals to meet that portion of the overall goal which is not likely to be met utilizing race-neutral measures. The City of Lodi shall monitor and adjust the estimated utilization of race-neutral and race-conscious measures as required in accordance with regulatory guidelines.

Process

Starting with Federal Fiscal Year 2007, the City of Lodi will submit its overall annual DBE goal to Caltrans by June 1 of each year. The goal submission includes the amount of overall goal, the method utilized to calculate the goal and the estimated race-neutral and race-conscious participation projections. An exception to this will be if FTA or FAA recipients are required by FTA or FAA to submit the annual information to them or a designee by another date.

FHWA recipients will follow this process:

Once the DLAE has responded with preliminary comments and the comments have been incorporated into the draft overall goal analysis, the City of Lodi will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City of Lodi's principal office for 30 days from the date of the notice, and informing the public that the City of Lodi will accept comments relative to the goal analysis for 45 days following the date of the notice. Advertisements in newspapers, minority focus media, trade publications, and websites will be the normal media to accomplish this effort. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposed goal and rationale may be reviewed.

The overall final goal resubmission to the Caltrans DLAE, will include a summary of information and comments received during this public participation process, including the City of Lodi's responses and a determination on the impact the public comments has on the overall goal, if any. This will be due by September 1 to the Caltrans DLAE. The

DLAE will have a month to perform a final review enabling the City of Lodi to implement the new overall annual goal by October 1 of each year.

XV. Contract Goals (§ 26.51)

The City of Lodi will use contract goals to meet any portion of the overall goal the City of Lodi does not project being able to meet by the use of race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race neutral means.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract, and the size of the contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBE's to perform that particular type of work). The contract work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractor and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

XVI. Transit Vehicle Manufacturers (§ 26.49)

If DOT- assisted contracts will include transit vehicle procurements, the City of Lodi will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49. The City of Lodi will direct the transit vehicle manufacturer to the subject requirements located on the Internet at <http://osbuweb.dot.gov/programs/dbe/dbe.htm>.

XVII. Good Faith Efforts (§ 26.53)

Information to be Submitted

The City of Lodi treats bidders'/offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information to: City of Lodi, P.O. Box 3006, Lodi, CA 95241, no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

1. The names and addresses of known DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;

City of Lodi Disadvantaged Business Enterprise Program

3. The dollar amount of the participation of each DBE firm participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation submits to meet a contract goal;
5. Written and signed confirmation from the DBE that is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has been done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26, which is attached.

The following personnel is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: Ms. Rebecca Areida.

The City of Lodi will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before a commitment to the performance of the contract by the bidder/offereor is made.

Administrative Reconsideration

Within 10 days of being informed by the City of Lodi that it is not responsive because it has not been documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/ offerors should make this request in writing to the following Reconsideration Official:

Blair King, City Manager
City of Lodi
P.O. Box 3006
Lodi, CA 95241
Telephone: (209) 333-6700
E-Mail: bking@lodi.gov

The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not make/document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City of Lodi will send the bidder/offeror a written decision on reconsideration, explaining the basis for the finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

The result of the reconsideration process is not administratively appealable to Caltrans, FHWA, or the DOT.

Good Faith Efforts when a DBE is Replaced on a Contract

The City of Lodi will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor is required to notify the RE immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain the City of Lodi's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, the City of Lodi's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

XVIII. Counting DBE Participation (§ 26.55)

The City of Lodi will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of materials and supplies. See Caltrans' Sample Boiler Plate Contract Documents previously mentioned. Also, refer to XIII: "*After Contract Award.*"

XIX. Certification (§ 26.83 (a))

The City of Lodi ensures that only DBE firms currently certified on the Caltrans' directory will participate as DBE's in out program.

XX. Information Collecting and Reporting

Bidders List

The City of Lodi will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age of firm, type of work provided by the firm and annual gross receipts of the firms.

The City of Lodi has incorporated a Bidders List form, identified as Appendix C, into the City of Lodi's solicitation documents, which requires that bidders/offers provide all required information.

Monitoring Payments to DBE's

Prime contractors are required to maintain records and documents of payments to DBE's for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Lodi, Caltrans or FHWA. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by the City of Lodi to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to Caltrans

The City of Lodi will report final utilization of DBE participation to the DLAE using Exhibit 17-F of the Caltrans LAPM.

Confidentiality

The City of Lodi will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, State and local laws.

Blair King
City Manager
City of Lodi

Date: _____

This Disadvantaged Business Enterprise Program is accepted by:

Signature of DLAE

Date: _____

APPENDIX A TO PART 26
GUIDANCE CONCERNING GOOD FAITH EFFORTS

- I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

- II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

- III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

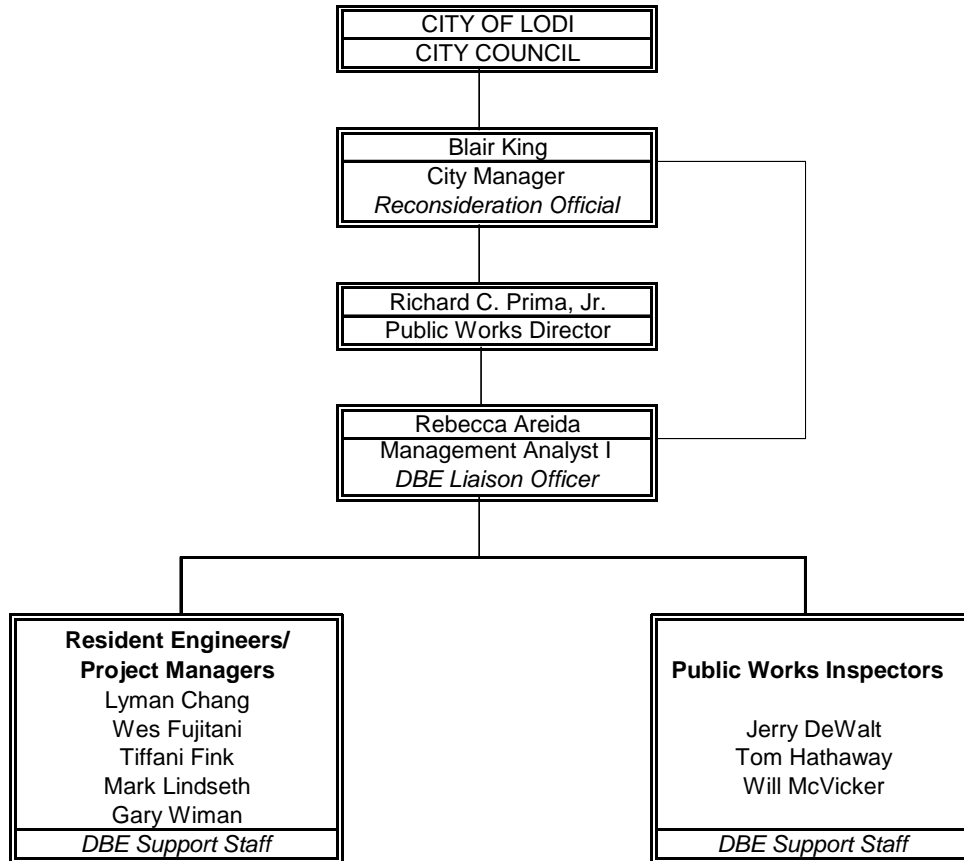
- IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to

- allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
 - C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
 - E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or nonsolicitation of bids in the contractor's efforts to meet the project goal.
 - F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

- G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

CITY OF LODI DBE PROGRAM ORGANIZATIONAL CHART



CITY OF LODI

BIDDERS LIST

All bidders/proposers are required to provide the following information for all DBE and non-DBE contractors, who provided a proposal, bid, quote or were contacted by the proposed prime. This information is also required from the proposed prime contractor, and must be submitted with their bid/proposal. The City of Lodi will use this information to maintain and update a Bidders List to assist in the overall annual goal setting process.

Firm Name: _____ Phone: _____

Address: _____ Fax: _____

Contact
Person: _____ No. of Years in Business: _____

Is the firm currently certified as a DBE under the new regulations (49 CFR part 26)

☐ Yes ☐ No

Type of work/services/materials provided by firm: _____

What was your firm's Gross Annual receipts for last year?

_____	Less than \$1 Million
_____	Less than \$5 Million
_____	Less than \$10 Million
_____	Less than \$15 Million
_____	More than \$15 Million

This form can be duplicated if necessary to report all bidders (DBE and non-DBE's) information.

**LODI TRANSIT SYSTEM
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
OVERALL ANNUAL DBE GOAL SETTING METHODOLOGY
FOR
FEDERAL FISCAL YEAR 2005/06
(Covering the period of October 1, 2005 through September 30, 2006)**

I. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2005/06

Table 1 serves to define Lodi Transit System's DOT-assisted (FTA) contracting program for FFY 2005/06 by contract type (i.e. Construction, Professional Services and respective federal dollar amounts allocated). The fiscal year's contracting program includes three (3) DOT- (FTA) assisted projects, which were assessed in preparing the Agency's *Overall Annual DBE Goal-Setting Analysis*. All three (3) projects have viable subcontracting possibilities and are anticipated to be awarded within the fiscal year 2005/06.

Table 1

PROJECT	Total Estimated Project Cost	Estimated Federal Dollar Share of Construction	Estimated Federal Dollar Share of Professional Services	Estimated Federal Dollar Share of Materials & Supplies
Lockeford/Sacramento Traffic Signal	\$237,000.00	\$237,000.00	-0-	-0-
Bus Shelters	\$125,000.00	\$125,000.00	-0-	-0-
Fleet Shop Expansion	\$275,000.00	-0-	\$55,000.00	-0-
TOTAL USED IN ANALYSIS	\$637,000.00	\$362,000.00	\$55,000.00	-0-

Table 2 provides a summary of work grouped into two primary categories: *Construction and Professional Services* utilizing the CUCP 2002 North American Industry Classification System (NAICS) work categories and comparable 2002 Census Business Patterns NAICS. *Table 2* also serves to identify the estimated Federal Dollar Share and the relative weighted percentage per contract type, as follows:

Table 2

CONTRACT TYPE	CUCP 2002 NAICS WORK CATEGORY	COMPARABLE 2001 NAICS CENSUS DATA	ESTIMATED FEDERAL DOLLAR SHARE	WEIGHTED %
Construction	237310	234110	\$362,000.00	87%
Professional Services	237990	234990	\$55,000.00	13%
TOTAL			\$417,000.00	100 %

II. GOAL-METHODOLOGY

Step 1: Determination of a Base Figure (26.45)

To establish the Agency's Base Figure representing the relative availability of DBEs to all comparable firms (DBEs and Non-DBEs) available to bid or propose on the Agency's federally assisted contracts in FFY 2005/06, the Agency followed one of the five federally prescribed goal setting methodologies. This was accomplished by accessing the ***California Unified Certification Program (CUCP) Database of Certified Firms*** and the ***2002 U.S. Census Bureau County Business Patterns (CBP) Database***. Comparisons were made by corresponding zip codes within Lodi Transit System's market area (defined as San Joaquin, Calaveras, Stanislaus and Sacramento Counties) and by the specified industries and types of businesses identified in Table 2. The Agency's local market area represents where the substantial majority of the Agency's dollars are expended and/or where the substantial majority of contractors and subcontractors' bids or quotes.

The Lodi Transit System made a concerted effort to ensure that the scope of businesses included in the numerator was as close as possible to the scope included in the denominator.

- ⇒ ***For the numerator:*** ***California UCP DBE Database of Certified Firms***
- ⇒ ***For the denominator:*** ***2002 U.S. Census Bureau's Business Pattern Database (CBP)***

To determine the relative availability of DBEs within the Lodi Transit System's market area, the Agency divided the numerator representing the ratio of ready, willing and able DBE firms, by the denominator representing all firms (DBEs and Non-DBEs) available for each of the work categories. Application of this formula yielded the following baseline information:

$$\frac{\text{Number of Ready, Willing, and Able DBEs}}{\text{Number of All Available Firms (including DBEs and Non-DBEs)}} = \text{BASE FIGURE}$$

The Base Figure was further adjusted by weighting the relative availability of DBEs grouped within the major work categories, giving more weight to the work categories/industries in which the Agency projects to spend more DOT- (FTA) assisted dollars. The Base Figure resulting from this weighted calculation is as follows:

Step I: Base Figure: (weighted by type of work to be performed and corresponding contracting dollars)

$$\text{Base Figure} = \left[\begin{array}{c} \text{Construction} \\ 87\% \left(\frac{\text{DBEs in 237310*}}{\text{CBPs in NAICS 234110**}} \right) \end{array} \right] + \left[\begin{array}{c} \text{Professional Services} \\ 13\% \left(\frac{\text{DBEs in 237990*}}{\text{CBPs in NAICS 234990**}} \right) \end{array} \right]$$

$$\text{Base Figure} = \left[\begin{array}{c} .87 \left(\frac{178}{2913} \right) \end{array} \right] + \left[\begin{array}{c} .13 \left(\frac{37}{503} \right) \end{array} \right]$$

$$\text{Base Figure} = \left[\begin{array}{c} .87 (.0611) \end{array} \right] + \left[\begin{array}{c} .13 (.0736) \end{array} \right]$$

$$\text{Base Figure} = \left[\begin{array}{c} .0532 \end{array} \right] + \left[\begin{array}{c} .0096 \end{array} \right]$$

$$\text{Base Figure} = \left[\begin{array}{c} 0.0627 \end{array} \right]$$

$$\text{Base Figure} = (.0627) 100 = 6.27 = \mathbf{6\%}^{***}$$

* For all additional NAICS Codes from the California Unified DBE Directory, refer to Attachment I.

** For all additional NAICS Codes included in the analysis, refer to Attachment II.

*** Rounded to the nearest whole number.

Step 2: Adjusting the Base Figure

Upon establishing the Base Figure, Lodi Transit System reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within Lodi Transit System's market area, accordance with prescribed narrow tailoring provisions set forth under Title 49 CFR Part 26.45 Step II DBE Goal Adjustment guidelines.

Evidence considered in making an adjustment to the Base Figure included the *Lodi Transit System's Past DBE Goal Attainments on Similar Type Projects, Bidders List, Disparity Studies, Other Agencies' DBE Goals and attainments within the Lodi Transit System's jurisdiction and Other Evidence*. A summary of these considerations follows:

A. Past DBE Goal Attainments on Similar Type Projects

While this is an important consideration in the overall goal setting analysis, Lodi Transit System has no historical records of DBE attainment as this is the first year of FTA DOT-assisted projects. Lodi Transit System will continue to capture such information and will utilize this data in future goal-setting analysis.

B. Lodi Transit System's Bidders List

The Agency's Bidders List was considered in adjusting the base figure, however, the Agency's data collection system does not provide for this type of assessment as this is the first year of DOT-assisted projects. Accordingly, the Agency will not make an adjustment to the Step 1 Base Figure based on the Bidders List. The Agency will automate its Bidders List and will capture such information from all bidders at the time of bid/proposal submission and will utilize such information in future goal-setting analysis.

C. Evidence from Disparity Studies

Lodi Transit System is not aware of any current disparity studies within Lodi Transit System's jurisdiction and/or market area to consider in this step of the goal setting analysis.

D. Other Agencies DBE Goals

Lodi Transit System surveyed other DOT-recipients (local agencies) within its jurisdiction, with similar contracting programs to assess their DBE goals and actual attainments toward making an adjustment. Local agencies included in the survey were Stanislaus County and the City of Ripon. Using the most current data available, the DBE Goal established for Stanislaus County (FFY 2005) was 7%, while the DBE Goal established for the City of Ripon (FFY 2005) was 5%. Since the goal projections and attainments are in alignment with Lodi Transit System's Base Figure of 6%, no adjustment is recommended.

E. Other Evidence

Lodi Transit System is not aware of any additional relevant data, including anecdotal evidence over and above those factors considered that would sufficiently merit an adjustment to the Base Figure at this time. However, the Agency will continue to explore and consider all available evidence that could have a potential impact on the DBE goal setting process (i.e. relative availability of DBEs within the Agency's market area in future goal setting analysis).

Overall Resultant Goal Adjustment

Based on Lodi Transit System's review and consideration of the above factors, particularly the lack of historical DBE participation/attainment data, evidence considered does not merit an adjustment to the Base Figure at this time.

III. OVERALL ANNUAL GOAL AND PROJECTION OF RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION:

As there is no historical attainment data to determine Race-Neutral attainments, the **Lodi Transit System projects that the proposed Overall Annual DBE Goal for FFY 2005/06 of 6% will be met utilizing Race-Conscious measures**, including utilizing contract specific numeric goals, as necessary to achieve the overall goal and **0%** will be achieved utilizing Race-Neutral Measures.

However, in accordance with Title 49 CFR Part 26.51, the Agency will continue to prioritize the use of race-neutral measures to the extent feasible to meet its overall annual DBE goal including: arranging timely solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small business participation and by requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces. The application of race-conscious goals on the Agency's DOT-assisted contracts will continue to be used only to the extent necessary to achieve the Agency's approved DBE overall annual goal. Should the initial contract's actual DBE commitments exceed projections, adjustments will be made accordingly.

IV. PUBLIC PARTICIPATION AND FACILITATION

In accordance with Public Participation Regulatory Requirements of 49 CFR Part, minority, women, local business chambers, and community organizations within Lodi Transit System's market area will be provided an opportunity to review this goal analysis. The Agency will prepare an Outreach Consultation Letter advising the aforementioned business community of the proposed DBE goal analysis and availability for review.

Lodi Transit System will also issue a Public Notice in general circulation media and in at least one other minority focused media publishing the Agency's proposed Overall Annual Goal for FFY 2005/06 DOT-assisted contracts. Such Notice will inform the public that the proposed goal and its rationale is available for inspection at Lodi Transit System's offices (from 8:30 a.m. to 4:00 p.m., Pacific Standard Time, Monday through Friday) for 30 days following the date of the Public Notice and that Lodi Transit System will accept comments on the goal analysis for 45 days from the date of the Public Notice. The required public participation provisions will be fully satisfied prior to submitting the Lodi Transit System's Overall Annual DBE Goal to the Federal Transit Administration for final review and approval.

CITY OF LODI

DBE OVERALL ANNUAL GOAL ANALYSIS FOR FFY2005/2006

ESTABLISHMENT OF THE NUMERATOR:

OF ESTABLISHED DBE FIRMS BY WORK CATEGORY WITHIN THE CITY OF LODI'S MARKET AREA (DEFINED AS SAN JOAQUIN, CALAVERAS, STANISLAUS AND SACRAMENTO COUNTIES ¹)

CONSTRUCTION:			BY CORRESPONDING ZIP CODES						
NAICS 2002	COUNTY BUSINESS PATTERNS USING 2002 NAICS	NAICS DESCRIPTION	942	952	953	956	957	958	TOTAL
237310	234110	Highway, Street and Bridge Construction	0	0	8	16	5	9	38
237990	237990	Other Heavy and Civil Engineering Construction	0	1	1	1	2	1	6
238110	235710	Poured Concrete Foundation and Structure Contractors	0	1	5	6	6	4	22
238140	235410	Masonry Contractors	0	0	1	2	0	0	3
238160	235610	Roofing Contractors	0	1	1	1	0	0	3
238210	235310	Electrical Contractors	0	0	3	2	1	0	6
238320	235210	Painting and Wall Covering Contractors	0	1	0	2	0	2	5
238990	235710	All Other Specialty Trade Contractors	0	6	7	26	10	13	62
324121	324121	Asphalt Paving, Roofing, and Saturated Materials Manufacturing	0	0	2	0	0	0	2
327121	327121	Brick and Structural Clay Tile Manufacturing	0	0	0	0	0	0	0
327332	327332	Concrete Pipe Manufacturing	0	1	0	0	1	1	3
332312	332312	Fabricated Structural Metal Manufacturing	0	0	1	0	0	0	1
334290	334290	Other Communications Equipment	0	0	0	0	0	0	0
335999	335999	All Other Miscellaneous Electrical	0	0	0	1	0	1	2
484110	484110	General Freight Trucking, Local	0	3	7	5	0	2	17
484220	484220	Specialized Freight (except Used Goods) Trucking, Local	0	1	0	1	0	1	3
561730	561730	Landscaping Services	0	0	0	1	0	2	3
561990	561990	All Other Support Services	0	1	0	0	0	1	2
TOTAL NUMBER OF ESTABLISHED DBE FIRMS			0	16	36	64	25	37	178

PROFESSIONAL SERVICES:

ATTACHMENT I

NAICS 2002	COUNTY BUSINESS PATTERNS USING 2002 NAICS	NAICS DESCRIPTION	942	952	953	956	957	958	TOTAL
541330	541330	Engineering Services	0	2	1	12	5	13	33
541310	541310	Architectural Design Services	0	0	0	2	1	1	4
TOTAL NUMBER OF ESTABLISHED DBE FIRMS			0	2	1	14	6	14	37

¹: **DATA SOURCE:** California UCP DBE Database of Certified Firms.

CITY OF LODI DBE OVERALL ANNUAL GOAL ANALYSIS FOR FFY2005/06

ATTACHMENT II

ESTABLISHMENT OF THE DENOMINATOR:

OF ALL ESTABLISHED FIRMS (DBEs and Non DBEs) BY WORK CATEGORY WITHIN THE CITY OF LODI'S MARKET AREA (DEFINED AS SAN JOAQUIN, CALAVERAS, STANISLAUS AND SACRAMENTO COUNTIES¹)

CONSTRUCTION:						
Major Category:		San Joaquin	Calaveras	Stanislaus	Sacramento	Total
NAICS CODE	NAICS DESCRIPTION					
234110	Highway, Street and Bridge Construction	19	6	17	34	76
237990	Other Heavy and Civil Engineering Construction	0	0	0	0	0
235710	Poured Concrete Foundation and Structure Contractors	65	6	65	131	267
235410	Masonry Contractors	14	5	17	44	80
235610	Roofing Contractors	59	8	44	153	264
235310	Electrical Contractors	97	12	73	228	410
235210	Painting and Wall Covering Contractors	81	14	69	202	366
235710	All Other Specialty Trade Contractors	65	6	65	131	267
324121	Asphalt Paving, Roofing, and Saturated Materials Manufacturing	4	0	65	4	73
327121	Brick and Structural Clay Tile Manufacturing	0	0	0	1	1
327332	Concrete Pipe Manufacturing	2	0	2	2	6
332312	Fabricated Structural Metal Manufacturing	10	0	7	9	26
334290	Other Communications Equipment	0	1	0	2	3
335999	All Other Miscellaneous Electrical	1	0	0	0	1
484110	General Freight Trucking, Local	87	1	46	61	195
484220	Specialized Freight (except Used Goods) Trucking, Local	98	7	75	76	256
561730	Landscaping Services	120	14	101	279	514
561990	All Other Support Services	19	2	16	71	108
TOTAL NUMBER OF ESTABLISHED FIRMS		741	82	662	1428	2913

PROFESSIONAL SERVICES:

Major Category: 23411: Highway & Street Construction		ATTACHMENT II				
		San Joaquin	Calaveras	Stanislaus	Sacramento	Total
NAICS CODE	NAICS DESCRIPTION					
541330	Engineering Services	53	8	49	255	365
541310	Architectural Design Services	19	3	18	98	138
TOTAL NUMBER OF ESTABLISHED FIRMS		72	11	67	353	503

¹: **DATA SOURCE:** 2001 U.S. Census Bureau: County Business Patterns, NAICS Work Category Codes.

RESOLUTION NO. 2005-259

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
AND ADOPTING THE ESTABLISHED OVERALL ANNUAL DBE
GOAL OF 6% FOR FEDERAL TRANSIT ADMINISTRATION-
ASSISTED PROJECTS FOR FEDERAL FISCAL YEAR 2005-06

=====

WHEREAS, the City of Lodi is required to develop and submit an Overall Annual Goal for Disadvantaged Business Enterprise (DBE) participation for U. S. Department of Transportation (DOT)-assisted contracts as a condition of federal financial assistance, pursuant to revised regulations set forth under Title 49 CFR Part 26; *Participation by Disadvantaged Business Enterprises in Department of Transportation Programs*; and

WHEREAS, in accordance with DBE regulations, the City of Lodi has established an Overall Annual DBE Goal for federal fiscal year 2005-06 for Federal Transit Administration (FTA)-assisted projects to ensure full compliance with relevant regulatory requirements; and

WHEREAS, the City of Lodi has established a goal of 6% for DOT-assisted projects for federal fiscal year 2005-06; and

WHEREAS, City Council adoption is required to ensure compliance with DOT's federal funding requirements, provisions, and financial responsibilities.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the DBE Program and adopt the Established Overall Annual DBE Goal of 6% for FTA-assisted projects for federal fiscal year 2005-06 and submission to the California Department of Transportation for funding authority approval on behalf of the City of Lodi.

Dated: December 21, 2005

=====

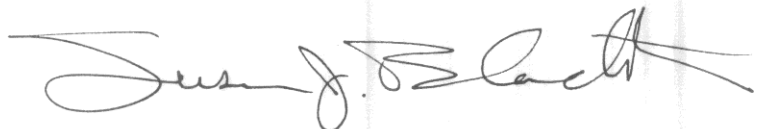
I hereby certify that Resolution No. 2005-259 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 21, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, Mounce,
and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk